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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances
Eighth session

Summary record (partial)* of the 126th meeting
Held at the Palais Wilson, Geneva, on Thursday, 5 February 2015, at 3 p.m.

Chairperson: Mr. Decaux

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.10 p.m.

Meeting with States Members of the United Nations

1. **The Chairperson** said that the Convention, which had entered into force in December 2010, had now been ratified by a total of 44 States and that further ratifications were expected in due course. Recalling the importance attached by the General Assembly to working towards universal adherence, he urged States that had not yet done so to ratify the Convention and to recognize the Committee's competence to receive and consider communications under articles 31 and 32.

2. The Committee, which had been established in 2011, was fully operational and functioning smoothly with a well-established methodology. The current focus of its work was on the various substantive aspects of its mandate, such as the consideration of State party reports, the examination of individual complaints and the processing of requests for urgent action. States parties were required to submit an initial report on the implementation of the Convention to the Committee within two years after the Convention's entry into force for the State party in question; the Committee could subsequently request States parties to provide additional information on the implementation of the Convention in the light of any developments that had taken place in the intervening period. He called upon States parties to comply with their reporting requirements and to submit their reports in a timely fashion. The Committee had thus far examined some 10 State party reports, including most recently those of Armenia, Mexico and Serbia, which had been considered during the current session. The next regular elections to renew one half of the Committee's membership of 10 experts were due to take place in June 2015.

3. The Committee was committed to ensuring the transparency of its proceedings. It therefore ensured that State party reports and other related materials were posted on its website soon after their submission in order to make them widely available for discussion by interested parties. He hoped that it would soon be possible to resume webcasting Committee meetings on a regular basis, inasmuch as that practice had been suspended for technical reasons.

4. Collaboration with other United Nations human rights bodies was an important aspect of the Committee's work. The annual meeting of chairpersons of the human rights treaty bodies represented a good opportunity to work towards improving coherence across the treaty bodies and standardizing working methods, in line with General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system. Those meetings also allowed chairpersons to discuss issues of common concern, such as the question of reprisals and threats against members of treaty bodies, an issue that would be discussed at the forthcoming 2015 meeting. The Committee also worked closely with special procedures mandate holders, such as the Working Group on Enforced or Involuntary Disappearances. In addition to regular, informal contacts, the Committee held an annual meeting with the Working Group in order to discuss complementarity of procedures and to coordinate the two bodies' activities more effectively with a view to strengthening efforts to combat enforced disappearance.

5. **Ms. Mantecón Fumado** (Argentina) said that her Government welcomed the opportunity to engage in a productive dialogue with the Committee as a way to improve the latter's work and strengthen cooperation with States. Her Government reaffirmed its unflagging commitment to the precepts embodied in the Convention, its implementation and, in particular, the work of the Committee.

6. The Argentine Republic appreciated the professionalism and independence with which the Committee had conducted its work in the first four years of its existence. Her Government was of the view that the Committee's work had had a direct impact on her

country's efforts to build a nation based on memory, truth and justice. It was in that spirit that Argentina had submitted its initial report and established a constructive dialogue with the Committee. Her Government was convinced that the various measures put in place by the Committee were the most effective way to improve the capacity of Governments to guarantee the fundamental rights of their citizens.

7. The Committee had boosted public awareness of the issue of enforced disappearance and had done much to promote the Convention. In that regard, her Government wished to renew its commitment to continue, together with France, to lead the international campaign aimed at promoting the signature and ratification of the Convention.

8. The Committee should give consideration to proposing measures that would enable it to cope with its ever increasing workload, such as extending the length of its sessions or increasing the number of sessions held each year. It might also give thought to holding at least one session at a venue other than Geneva. While her Government was aware of the financial difficulties facing the United Nations system as a whole and the Office of the United Nations High Commissioner for Human Rights in particular, it believed that the Committee should be allocated the human and financial resources it needed to fulfil its mandate effectively.

9. Her Government strongly believed that there was a need for improved linkages between United Nations agencies dealing with the issue of enforced disappearance and, in that connection, it welcomed efforts by the Committee to coordinate its work with not only the Working Group on Enforced or Involuntary Disappearances but also other Human Rights Council special procedures and other United Nations bodies.

10. **Ms. Petit** (France) said that she joined the representative of Argentina in expressing appreciation for the work of the Committee. She assured the Committee of her Government's continuing support for its efforts to combat enforced disappearance. Her Government wished to take the opportunity to encourage all States that had not yet done so to ratify the Convention.

11. She would welcome further details about how the Committee cooperated with other human rights treaty bodies.

12. **The Chairperson** said that consultations between the 10 human rights treaty body chairpersons had been strengthened in recent years. Their annual meetings were held either in Geneva or at a regional venue, with the 2015 meeting scheduled to take place in San José, Costa Rica. The chair of those meetings was elected from among the participants on a rotating basis. The meetings provided a forum for the chairpersons to consider ways to reform, improve and harmonize the treaty body system. In addition, chairpersons were able to discuss substantive issues, such as the inclusion of the protection of human rights in sustainable development goals. At an informal meeting held in January 2015, the chairpersons had adopted a position paper on human rights against violence.

13. **Mr. Bougacha** (Tunisia) said that his Government wished to reiterate its support for the Committee and to commend it on the work it had carried out to date. Tunisia welcomed the fact that collaboration among the various treaty bodies went beyond procedural matters to encompass such important substantive issues as reprisals and sustainable development goals. He reaffirmed his Government's commitment to the treaty body strengthening process.

14. Tunisia had recently submitted its initial report on the implementation of the Convention to the Committee and was looking forward to engaging in an open and constructive dialogue with the Committee.

15. **Mr. Huhle** said that he wished to endorse the Chairperson's comment on the importance of recognizing the Committee's competence to receive and consider

communications. The Committee's competence in that regard was necessary to give full effect to the Convention. He therefore called upon States parties that had not yet done so to make the necessary declarations under articles 31 and 32. He encouraged States that were intending to ratify the Convention to recognize the Committee's competence in respect of communications at the time of ratification.

16. The Committee had discussed the question of holding sessions in places other than Geneva and would welcome the opportunity to do so if extra funding were made available.

17. **Mr. Corcuera Cabezut** called upon States parties to assist the Committee in raising awareness about the importance of achieving universal adherence to the Convention. It was vital that all States, including those that were not directly concerned with cases of enforced disappearance, should accede to the Convention as a way to signal their determination to eradicate the crime of enforced disappearance. In order to further strengthen the work of the Committee, signatory States should also make the declarations under articles 31 and 32 recognizing its competence to receive and consider communications.

The meeting was suspended at 3.50 p.m. and resumed at 4.10 p.m.

Meeting with national human rights institutions

18. **The Chairperson** invited the representative of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to address the Committee on Enforced Disappearances.

19. **Ms. Rose** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that ICC welcomed the consideration that the Committee on Enforced Disappearances had always given to the contributions made by national human rights institutions to its work. The paper that the Committee had adopted on its relationship with national human rights institutions (CED/C/6) and the consultative process that the Committee had initiated with ICC marked a milestone in the cooperation that was developing between the Committee and those institutions. The paper, which set out concrete ways in which the Committee and national institutions could work together at all stages of the Committee's work, had been formally welcomed by the ICC Bureau at its meeting in October 2014. It had been distributed to all national human rights institutions worldwide and, in the view of ICC, should serve as an inspiration to other United Nations human rights treaty bodies in their efforts to strengthen and harmonize their engagement with those institutions. ICC had identified four essential areas on which joint efforts to implement and build on the Committee's paper should centre: mandates, capacity-building, engagement and protection.

20. The mandates of national human rights institutions were sometimes subject to limitations that affected the ability of those institutions to work effectively in the area of enforced disappearances. Such limitations included insufficient resources or a lack of competence to act on complaints and conduct investigations. Accordingly, ICC welcomed the Committee's recommendations to States parties that they should ensure that their national institution was in full compliance with the principles relating to the status of national institutions (the Paris Principles) so that it could achieve or maintain category A status.

21. On 10 March 2015, immediately preceding its twenty-eighth annual meeting, ICC would host a round-table discussion on its internal accreditation system as part of its ongoing effort to enhance the legitimacy, effectiveness, rigour and transparency of the system. The round table would consider the relationship between national human rights institutions having category A status and other independent national bodies, such as local human rights commissions or bodies with thematic human rights mandates, with a view to providing guidance to ICC members in that regard.

22. In the area of capacity-building, ICC and its regional networks relied on training, peer support and exchanges of best practices among members as means both for developing the expertise of national human rights institutions in the Convention and for tapping those institutions' unique mandates and engagement with the Committee to promote the Convention and monitor its implementation in their respective countries. ICC had developed a Geneva-based training programme for national institutions that focused on engaging with international human rights mechanisms, including the treaty bodies. The first session of the training programme had been held in 2014 and a second session was planned for May 2015. In partnership with the United Nations Institute for Training and Research (UNITAR), ICC was also developing an e-learning training course for staff members of national institutions. ICC appreciated the time set aside by treaty body experts and special procedures mandate holders to meet informally with the training programme's participants, and it looked forward to pursuing more activities along those lines in the future. The Office of the United Nations High Commissioner for Human Rights (OHCHR) had announced that, in implementing the General Assembly resolution on strengthening the human rights treaty bodies, it would conduct capacity-building activities to assist States in fulfilling their treaty obligations. That was an important development, and ICC hoped that the training would extend to other key actors besides States, such as civil society organizations and national human rights institutions.

23. The third area for cooperation with the Committee was engagement – that of the Committee with national human rights institutions and that of the institutions with the Committee. The Committee had formally recognized the role of national human rights institutions and had engaged with them in efforts to promote and monitor the implementation of the Convention. In turn, national institutions from around the globe had demonstrated a high level of engagement at the Committee's sessions. Their contribution had taken the form of preparing alternative reports, providing updates to briefings — which, thanks to the Committee's flexibility, they had been able to do through teleconferencing — and following up on the Committee's concluding observations in their respective countries.

24. ICC had provided assistance and advice to all national human rights institutions of States whose reports were due to be considered by the Committee with regard to the Committee's mandate and the mechanisms available under the Convention. As national institutions continued to engage with the Committee, ICC looked forward to receiving feedback from the Committee on ways in which it could fine-tune the advice it provided to national institutions; that might include giving practical effect to some of the actions described in the Committee's paper, such as taking steps in the event of the absence or late submission of a State party report, supporting the follow-up procedure of the Committee, encouraging the ratification of the Convention or assisting in the incorporation of the Convention into national law. ICC had begun an internal debate on how best it could bring the experiences and views of national human rights institutions to the Committee, including at meetings such as the present one. She wished to confirm the importance ICC attached to the webcasting of the treaty bodies' public meetings.

25. The fourth area for cooperation between the national human rights institutions and the Committee was protection. ICC was concerned by reports of intimidation of, and reprisal against, persons who cooperated with the international human rights mechanisms, including staff members of some national institutions. ICC welcomed the fact that the treaty bodies had addressed the issue of reprisals in their work and would consider it at the 2015 meeting of chairpersons of human rights treaty bodies. ICC urged all treaty bodies to condemn reprisals and other acts of intimidation against persons cooperating with the international human rights system and to develop a common approach to addressing that problem.

26. **The Chairperson** said that the Committee's website contained a link to an information note on national human rights institutions engagement, which demonstrated the importance that the Committee attached to the contributions of those institutions. In view of the complications that sometimes arose when attempting to provide teleconferencing at a meeting, it would be useful if ICC could help the Committee to organize teleconferencing on a more systematic basis. He asked whether ICC might consider promoting the importance of ratifying the Convention at meetings of the national human rights institutions held in Geneva, or at the regional or international levels. Unfortunately, no country could consider itself immune to the phenomenon of enforced disappearance, which could develop very rapidly in a crisis situation. Another practical suggestion would be for ICC to promote as a good practice the hosting by national human rights institutions of live transmissions — for the general public or for the institution's staff — of meetings relating to the State party's compliance with its international human rights obligations, such as the universal periodic review process.

27. In its lists of issues, the Committee systematically asked about the independence, financing and resources of national human rights institutions, and in its concluding observations it often encouraged adherence to the Paris Principles. However, there were a number of issues that had arisen in connection with the fact that the Committee monitored a specialist — not a generalist — Convention. As a result, its partners often included not only the generalist national human rights institutions but also a number of specialized institutions, such as those in charge of inspecting prisons. The Committee's engagement with a generalist national human rights institution having category A status should not preclude it from engaging as well with a specialized body having expertise in enforced disappearances. Subnational institutions also had their role to play; some were even more successful in their efforts than the national human rights institution. It would therefore be worthwhile to find a way to integrate the contributions of those institutions into the Committee's work along with those of national human rights institutions having category A status.

28. Another problem was that institutions with category B status sometimes had information to report to the Committee or to another treaty body but were prevented from doing so as a result of intimidation. In discussions on how to address intimidation and reprisals, consideration should therefore be given also to protecting institutions that, for one reason or another, had not been granted category A status. On the question of reprisals, ICC might wish to consider compiling national institutions' concerns and sharing them with the members of the OHCHR secretariat involved in the preparations for the annual meeting of chairpersons so that they could be included in the meeting's deliberations.

29. **Mr. Corcuera Cabezut** said he welcomed the fact that ICC would be holding a round-table discussion on the relationship between national human rights institutions having category A status and other independent national bodies. As things currently stood, subnational commissions within a federal system of government and thematic institutions were not accredited by ICC and thus had no standing to come before the United Nations to express their views, even when they played an important role in the country whose report was being considered. It would be useful to develop a system for evaluating such institutions based on the criteria used for national human rights institutions and to assign them category A, B or C status as a means of gauging their level of independence. In his experience, it often happened that the national human rights institution met the criteria for category A status but that the other institutions were, in effect, under the control of the Government. Although the director of such institutions might have been appointed by the parliament and might therefore qualify as independent, it was frequently the case that the other members of the institution were not so independent despite their assertions to the contrary.

30. The Paris Principles referred to two main types of human rights commission: the national human rights commission, in general, and the national commission with quasi-jurisdictional competence. The Principles provided that representatives of government departments could participate in the deliberations of the national institutions in an advisory capacity. While it might, in some instances, be helpful to have a government representative present during such deliberations in order to find immediate solutions to problems, the presence of a government representative when national institutions that exercised a quasi-jurisdictional function were deliberating a situation concerning the Government could be limiting and even intimidating. It was probably time to start thinking about amending the Paris Principles so as to specify that government representatives should not be present when commissions were exercising their quasi-jurisdictional functions or in situations where violations of human rights were being considered.

31. **Mr. Yakushigi** said that he wished to thank ICC for its support during the preparation of the Committee's paper on the relationship between the Committee and the national human rights institutions. During the consideration of the initial report of Mexico, he had been acutely aware of the seating arrangement of the various stakeholders and the fact that it, in effect, segregated the delegation from the national human rights institution and other NGOs. That arrangement belied the important contribution that those institutions had made to the Committee's consideration of the State party's report and the contribution they would make in following up on its concluding observations. He commended ICC for its efforts to provide training to national human rights institutions and was in favour of maintaining close ties with ICC in order to further build their capacity.

32. **Ms. Rose** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that ICC was grateful for the importance that the Committee attached to its work. With regard to the prevention of reprisals, ICC would like to contribute in an appropriate manner, perhaps by speaking at the forthcoming meeting in San José.

33. The relationship between national and local human rights institutions was important and warranted careful consideration by ICC. That relationship should be fostered to ensure coherence across the various national protection systems and to ensure, where possible, that the institutions spoke with one voice and sent the same message to the human rights treaty bodies. The Committee had already observed that some national human rights institutions conducted joint investigations and issued joint reports and recommendations with local institutions.

34. Mr. Corcuera Cabezut's message regarding compliance with the Paris Principles would be conveyed and taken into consideration. It was often difficult to accredit a human rights institution because it was local rather than national in scope or had specific mandates as opposed to the broad mandate required by the Paris Principles. ICC looked forward to putting the document on the relationship of the Committee with national human rights institutions into practice and was available to assist the Committee in any way.

35. **The Chairperson** said that the Committee would hold an informal meeting with the head of the Mexican Human Rights Commission. Although speaking face to face was much more productive than via videoconference, in-person meetings could not always be organized for practical or financial reasons. Reprisals would need to be dealt with on a case-by-case basis, as the appropriate approach would depend on the specific circumstances. It was important to maintain a dialogue with national human rights institutions as they were able to provide the Committee with important information from the field.

The meeting was suspended at 4.45 p.m. and resumed at 5.05 p.m.

Meeting with non-governmental organizations and other stakeholders

36. **Mr. Agostini** (International Federation for Human Rights) said that the entry into force of the Convention held particular significance for the families of disappeared persons and for the International Federation for Human Rights, which was a member of the International Coalition against Enforced Disappearances. The families of victims, NGOs, public authorities, the United Nations and the Committee needed to step up their efforts to hold the perpetrators of enforced disappearances responsible for their acts and thereby deter the continued occurrence of that crime. The International Federation for Human Rights called on the States parties to the Convention to recognize enforced disappearance as a criminal offence in their criminal codes and to provide training on how to apply that provision; to ensure that victims, including the relatives of disappeared persons, had access to remedies and reparation in law and in practice; and to recognize the competence of the Committee to receive and consider communications. It also urged States that had not yet ratified the Convention to do so promptly.

37. **The Chairperson** said that the Committee welcomed the contributions made by NGOs, in particular by the International Federation for Human Rights. The International Coalition against Enforced Disappearance, which had played a significant role in the adoption of the Convention, might wish to consider launching ratification campaigns in countries that had signed the Convention — and perhaps even adopted legislation — but lacked the necessary political mobilization and technical support.

38. The work of NGOs was crucial to the various mechanisms established under the Convention. The submission and consideration of State party reports under article 29, for example, involved contributions from NGOs at every stage. Those contributions were not only welcome but also key to a constructive dialogue. As well, when articles 33 or 34 were invoked in situations of suspected violations of the Convention, the Committee relied on NGOs as a critical source of information. Inasmuch as article 30 of the Convention stipulated that requests for urgent action could be submitted by any person having a legitimate interest, NGOs were empowered to submit such requests if the relatives of the disappeared person were in agreement, or they could provide support to relatives who wished to submit a request themselves. Article 31 did not provide for the intervention of third parties or an amicus curiae procedure, but NGOs could still contribute by providing information or support to the author of the communication.

39. The Committee was increasingly aware of the risks faced on the ground by those who provided it with information. It therefore wished to establish measures to protect those persons and organizations from acts of intimidation and reprisals and hoped that the San José principles would be adopted at the forthcoming meeting of chairpersons of the human rights treaty bodies.

40. **Mr. Hazan** said that he would like to stress the importance that the Committee attached to the participation of civil society in its work, particularly in the framework of article 29 of the Convention. The Committee encouraged civil society to continue to provide reports and attend its meetings, participating via videoconferencing if necessary, as the information that civil society provided helped the Committee to have a more balanced account of the events and developments in the States parties.

41. **Mr. Corcuera Cabezut**, referring to the meetings at which the Committee had considered the report submitted by Mexico, said that the NGOs might have pooled their efforts and focused on certain issues; however, it was always better to have too much information than too little. Acknowledging that some organizations had limited resources and that even the larger NGOs could not cover every country in the world, the Committee would be grateful if NGOs could monitor what reports were being submitted so that, if they were not in a position to submit a report on a given State party, they could refer the

Committee to another organization that might be able to do so. In view of the importance of having well-balanced information from both the government and civil society, the Committee would welcome information from NGOs with regard to States parties that lacked an active civil society sector.

42. While NGOs and the press had ensured that the Committee's meetings with Mexico had been broadcast and that the information had been disseminated, the Committee's subsequent meetings with Armenia and Serbia had not been videotaped. He asked whether NGOs could assist the Committee with filming its public meetings in the future so that the deliberations could be recorded, broadcast and archived.

43. **The Chairperson** said that Mr. Corcuera Cabezut had raised an important point and that he welcomed the transparency afforded by video recordings. The Committee had considered some very sensitive issues that could benefit from greater visibility.

44. **Mr. Huhle** said that the relationship between the Committee and NGOs had evolved over the past four years. They now had a better understanding of each other's working methods and were working together.

45. **The Chairperson** said that he would like to thank those who had attended the meeting and said that their presence and their contributions were encouraging.

The discussion covered in the summary record ended at 5.30 p.m.